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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiffs,

v.

Defendant.

NO. SACV **-**** JVS(RNBx)
INITIAL JURY INSTRUCTIONS

DATED: *****

JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

INSTRUCTION NO. 1

Ladies and gentlemen: You now are the jury in this case. It is my duty to instruct you on the law.

These instructions are preliminary instructions to help you understand the principles that apply to civil trials and help you understand the evidence as you listen to it. At the end of the trial, I will give you a final set of instructions. It is the final set of instructions which will govern your deliberations.

You must not infer from these instructions or from anything I may say or do as indicating that I have an opinion regarding the evidence or what your verdict should be.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.

In the follow my instructions, you must follow all of them and not single out some and ignore others; they are all important.

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Plaintiffs ***** and the decedent *****', children claim that the conduct of a police officer of the City of ***** resulted in the wrongful death of *****, their husband and father, respectively. ***** is acting as the guardian of the children for purposes of this law suit. The City of ***** is the sole defendant.

INSTRUCTION NO. 3

When the party has the burden of proof on any claim or affirmative defense by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim or affirmative defense is more probably true than not true.

You should base your decision on all of the evidence, regardless of which party presented it.

INSTRUCTION NO. 4

The evidence you are to consider in deciding what the facts are consists of:

1. The sworn testimony of any witness;
2. The exhibits which are received into evidence; and
3. Any facts to which the lawyers have agreed.

1 **INSTRUCTION NO. 5**

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3 In reaching your verdict, you may consider only the testimony and exhibits

4 received into evidence. Certain things are not evidence, and you may not consider

5 them in deciding what the facts are. I will list them for you:

6

7 (1) Arguments and statements by lawyers are not evidence. The lawyers

8 are not witnesses. What they say in their opening statements, will say

9 in their closing arguments, and at other times is intended to help

10 interpret the evidence, but it is not evidence. If the facts as you

11 remember them differ from the way the lawyers have stated them,

12 your memory of them controls.

13

14 (2) Questions and objections by lawyers are not evidence. Attorneys have

15 a duty to their clients to object when they believe a question is

16 improper under the rules of evidence. You should not be influenced

17 by the objection or by the court's ruling on it.

18

19 (3) Testimony that has been excluded or stricken, or that you have been

20 instructed to disregard, is not evidence and must not be considered. In

21 addition sometimes testimony and exhibits are received only for a

22 limited purpose; when I give a limiting instruction, you must follow it.

23

24 (4) Anything you may have seen or heard when the court was not in

25 session is not evidence. You are to decide the case solely on the

26 evidence received at trial.

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INSTRUCTION NO. 6

Some evidence may be admitted for a limited purpose only.

When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose and for no other.

INSTRUCTION NO. 7

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

INSTRUCTION NO. 8

There are rules of evidence that control what can be received into evidence. When a lawyer ask a question or offers an exhibit into evidence and a lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered, and the exhibit cannot be received. Whenever I sustain an objection to a question, you must ignore the question and must not guess what the answer might have been.

Sometimes I may order that evidence be stricken from the record and that you disregard or ignore the evidence. That means that when you are deciding the case, you must consider the evidence that I told you to disregard.

INSTRUCTION NO. 9

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it. Proof of facts does not necessarily depend on the number of witnesses who testimony about it.

In considering the testimony of any witness, you may take into account:

- (1) the opportunity and ability of the witness to see or hear or know the things testified to;
- (2) the witness's memory;
- (3) the witness's manner while testifying;
- (4) the witness's interest in the outcome of the case and any bias or prejudice;
- (5) whether other evidence contradicted the witness's testimony;
- (6) the reasonableness of the witness's testimony in light of all the evidence; and
- (7) any other factors that bear believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify about it.

INSTRUCTION NO. 10

I will now say a few words about your conduct as jurors.

First, you are not to discuss this case with anyone, including members of your family, people involved in the trial, or anyone else; this includes discussing the case in internet chat rooms or through internet “blogs,” internet bulletin boards or e-mails. Nor are you allowed to permit others to discuss the case with you. If anyone approaches you and tries to talk to you about the case, please let me know about it immediately;

Second, do not read or listen to any news stories, articles, radio, television, or online reports about the case or about anyone who has anything to do with it;

Third, do not do any research, such as consulting dictionaries, searching the Internet or using other reference materials, and do not make any investigation about the case on your own;

Fourth, if you need to communicate with me simply give a signed note to the clerk to give to me; and

Fifth, do not make up your mind about what the verdict should be until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence. Keep an open mind until then.

Finally, until this case is given to you for your deliberation and verdict, you are not to discuss the case with your fellow jurors.

INSTRUCTION NO. 11

During deliberations, you will have to make your decision based on what you recall of the evidence. You will not have a transcript of the trial. I urge you to pay close attention to the testimony as it is given.

If at any time you cannot hear or see the testimony, evidence, questions or arguments, let me know so that I can correct the problem.

1 **INSTRUCTION NO. 12**

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3 Because you must base your verdict only on the evidence received in the

4 case and on these instructions, I remind you that you must not be exposed to any

5 other information about the case or to the issues it involves. Except for discussing

6 the case with your fellow jurors during your deliberations:

7

8 Do not communicate with anyone in any way and do not let anyone

9 else communicate with you in any way about the merits of the case or

10 anything to do with it. This includes discussing the case in person, in

11 writing, by phone or electronic means, via email, text messaging, or any

12 Internet chat room, blog, website, Facebook, Twitter, or other feature. This

13 applies to communicating with your family members, your employer, the

14 media or press, and the people involved in the trial. If you are asked or

15 approached in any way about your jury service or anything about this case,

16 you must respond that you have been ordered not to discuss the matter and

17 to report the contact to the court.

18

19 Do not read, watch, or listen to any news or media accounts or

20 commentary about the case or anything to do with it; do not do any research,

21 such as consulting dictionaries, searching the Internet or using other

22 reference materials; and do not make any investigation or in any other way

23 try to learn about the case on your own.

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25 The law requires these restrictions to ensure the parties have a fair trial based

26 on the same evidence that each party has had an opportunity to address. A juror

27 who violates these restrictions jeopardizes the fairness of these proceedings, and a

28 mistrial could result that would require the entire trial process to start over.

1 If any juror is exposed to any outside information, please notify the court
2 immediately.

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INSTRUCTION NO. 13

If you wish, you may take notes to help you remember the evidence. If you do take notes, please keep them to yourself until you and your fellow juror go to the jury room to decide the case. Do not let note-taking distract you. When you leave, your notes should be left in the courtroom. No one will read your notes. They will be destroyed at the conclusion of the case.

Whether or not you take notes, you should rely on your own memory of the evidence. Notes are only to assist your memory. You should not be overly influenced by your notes or those of your fellow jurors.

INSTRUCTION NO. 14

Trials proceed in the following way: First, each side may make an opening statement. An opening statement is not evidence. It is simply an outline to help you understand what that party expects the evidence to show. A party is not required to make an opening statement.

The plaintiff will then present evidence, and counsel for the defendant may cross-examine. Then the defendants may present evidence, and counsel for the plaintiff may cross-examine.

After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments.

After that, you will go to the jury room to deliberate on your verdict.